

MEMORANDUM

THE WHITE HOUSE

~~SECRET~~

WASHINGTON

ACTION
May 28, 1970

MEMORANDUM FOR THE PRESIDENT

FROM: Henry A. Kissinger *HK*

SUBJECT: Note to Cuban Government on Hijacking

In the memo at Tab A, Secretary Rogers asks your approval to present a draft memorandum of understanding on hijacking to the Cuban Government. Last November you authorized the Secretary to inform the Cuban Government that we would be prepared to enter into an agreement for the reciprocal return of hijackers (Tab C). Cuba replied to our initial approach by stating that it was disposed to work out an agreement. The Secretary is not very sanguine that an agreement is possible, and views the Cuban reply as more of an effort to return the ball to our court without committing Cuba. However, he recommends that we now forward a draft memorandum of understanding in an effort to pin down an agreement, because we should pursue the matter so long as there remains any hope of resolving this vexing problem.

Failure to follow up would give Castro the opportunity to say that the US is unwilling to settle this problem. If we reply with a concrete proposal we would demonstrate that we have gone to considerable and serious effort to deter hijacking; if we conclude an agreement, it would be to our advantage; if Castro backs away, we could charge Castro is insincere.

The text of the memorandum of understanding proposed by the Secretary is appended at Tab B. It states merely that each government will upon request return hijackers of planes or ships to the other, except that each government reserves the right not to return its own nationals or persons to whom it grants political asylum.

I agree with the Secretary's arguments and recommend that you approve his recommendation.

RECOMMENDATION

That you approve the dispatch of the note and proposed memorandum of understanding on hijacking attached at Tab B.

Approve *[Signature]*

Disapprove _____

Attachments:

Tab A - Secretary Rogers' memo of May 15

Tab B - Proposed Memorandum of Understanding

Tab C - Presidential authorization Nov. 1969 re Note

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THE SECRETARY OF STATE
WASHINGTON

S/S - 7072

May 15, 1970

~~SECRET/EXDIS~~

MEMORANDUM FOR THE PRESIDENT

Subject: Hijacking Agreement with Cuba

Recommendation:

That you approve the dispatch of the enclosed note to the Government of Cuba which proposes to that Government the text of a specific Memorandum of Understanding with respect to hijacking.

Approve _____ Disapprove _____

Background:

On December 8 the Cuban Government replied to our proposal for an understanding on the return of hijackers in the following terms:

"The Revolutionary Government of Cuba states that it is disposed to work out an agreement with the Government of the United States on hijackers of aircraft and other similar acts referred to in Cuban law 1226, published on September 16, 1969, which shall constitute for Cuba, the legal basis of the said agreement."

This general reply does not add much to the Cuban law of September 16, 1969 which in itself contemplates bilateral agreements, but it does state that the Cuban law is applicable to the United States. No doubt Castro made this reply to return the ball to our court without committing Cuba. Both Mexico and Canada, despite persistent efforts, have been unable to reach firm agreement with Cuba on the hijacking issue. Considering

~~SECRET/EXDIS~~

Group 3

Downgraded at 12-year intervals;
not automatically declassified.

~~SECRET/EXD18~~

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Cuba's trade and other relations with these countries, we are not hopeful that the United States will do better. Moreover, in a major speech on April 22, Castro cast doubt upon the sincerity of the motives of the Cuban Government when it announced its willingness to enter bilateral agreements on hijacking. That speech states that governments wishing to enter into hijacking agreements with Cuba must abide by the Cuban law "article by article without removing a single comma." The Cuban law includes provisions relating to illegal emigration from Cuba, which Cuba could not expect the United States to accept.

Nevertheless, it would serve our interests to offer to enter into a specific understanding with Cuba on hijacking. One reason is our public posture. Cuba has now responded to our December 8, 1969 note, that you had approved, by repeating its apparently forthcoming position. If we fail to make a significant reply, Castro will have the propaganda advantage. If we reply with a concrete proposal, we could demonstrate effectively that we have gone to considerable and serious effort to deter hijacking. We would be in a position to expose Castro's insincerity on the hijacking question if he fails to pursue an agreement seriously. More important, however, we should take all reasonable steps to stop hijacking. So long as there remains any hope of actually reaching some firm agreement, we should pursue the matter seriously. If no progress can be made, I would not plan to continue to forward proposals indefinitely.

If Cuba should suggest that as a means of reaching agreement on hijacking we cease using Guantanamo as a port of exit for Cubans seeking to come to the United States, a possibility hinted at in Castro's speech, we should reject the suggestion for we would then be required either to hold refugees at the base or return them to the Cuban authorities. Neither option is feasible. If we sought overtly to discourage Cubans seeking freedom from entering the base, it could be tantamount to our building a "Berlin Wall." In rejecting such terms, we could treat the suggestion as "evidence" that Cuba is not seriously interested in a hijacking agreement.

~~SECRET/EXD18~~

~~SECRET/ENDIS~~

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The possibility of concluding a formal agreement with Cuba was contemplated in my earlier memorandum to you on this subject. Failure to forward the Memorandum of Understanding would leave us in a situation in which Castro could say that he has repeated his offer to reach agreement with the United States on this sensitive problem, and that we had not responded.


William P. Rogers

Enclosure:
Note

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